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*Via Certified Mailing –
Return Receipt Requested*

July 30, 2015

Joy Eldredge - Water General Manager
City of Napa
P.O. Box 660
Napa, CA 94559

City Council
City of Napa
P.O. Box 660
Napa CA 94559

**Re: Notice of Violations and Intent to File Suit Under the Safe Drinking
Water Act**

Dear Ms. Eldredge and Members of the City Council:

NOTICE

This Notice is provided on behalf of California River Watch (“River Watch”) in regard to violations of the Safe Drinking Water Act (“SDWA” or the “Act”), 42 U.S.C. §§ 300f to 300j-26, that River Watch believes are occurring from operations of the City of Napa water system. This Notice addresses violations of the SDWA, such as failure to comply with maximum contaminant levels for total trihalomethanes in drinking water.

The Act requires that sixty (60) days prior to the initiation of a civil action under SDWA §300j-8(a)(1), 42 U.S.C. §1449(a)(1), a citizen must give notice of the intent to sue to the alleged violator and applicable federal and state authorities.

River Watch hereby gives notice to the City of Napa, (“the City”) that following the expiration of sixty (60) days from the date of receipt of this Notice, River Watch will be entitled to bring suit in the United States District Court against the City for violations

of requirements prescribed by or under the SDWA including, but not limited to: non-compliance with maximum contaminant levels (“MCLs”) issued under SDWA §300g-1, 42 U.S.C. §1412 and the Code of Federal Regulations, as exemplified by the incidents of non-compliance identified and outlined in this Notice; and failure to properly monitor water quality delivered to end-users.

The SDWA requires that any Notice regarding an alleged violation of any requirement prescribed by or under the Act shall include sufficient information to permit the recipient to identify the following:

1. *The specific requirement alleged to have been violated.*

In addition to the narratives below, River Watch identifies documents obtained from the State of California Water Resources Control Board’s Division of Drinking Water identifying repeated non-compliance by the City with the SDWA’s regulation of the maximum permissible level of contaminants in water delivered to any user of a public water system, and failure to conduct required sampling, in violation of SDWA, 42 U.S.C. §300g-1.

2. *The activity alleged to constitute a violation.*

The City of Napa water system serves a population of approximately 87,000 persons via 25,252 service connections. The City’s water is regulated under Domestic Water Supply Permit No. 02-03-11P2810003, issued by the California Department of Public Health. River Watch has set forth narratives below describing “positive” detections above the MCL for the disinfection byproduct total trihalomethanes (TTHM) occurring during specific quarterly reports between 2010 and 2015.

The violations are described in this Notice with particularity, and are based on data detailed in public reports and other documents in the City’s possession or otherwise available to the City. In addition to these reported violations, River Watch could find no evidence in any public reports that the City has determined the quality of water delivered to end-users. River Watch incorporates by reference the records cited below from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violation is the City of Napa including those of the City’s operators and employees responsible for compliance with the SDWA and compliance with any applicable state and federal regulations and permits.

4. *The location of the alleged violation.*

The locations of the various violations are the locations identified in the permits of the City identified in this Notice.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined records on file with the Division of Drinking Water and the City. The range of dates covered by this Notice is July 30, 2010 to July 30, 2015. River Watch may from time to time update this Notice to include violations by the City which occur after the range of dates covered. Specific violations occurring on specific dates are listed herein. Some of the violations are continuous in nature, such as failure to monitor water quality at point of delivery. Therefore, each day constitutes a separate violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this Notice is California River Watch, referred to herein as "River Watch." River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. The mailing address of River Watch's northern California office is 290 S. Main Street, # 817, Sebastopol, CA 95472. The mailing address of River Watch's southern California office is 7401 Crenshaw Blvd. #422, Los Angeles, CA 90043.

River Watch is dedicated to protecting, enhancing, and helping to restore the surface and groundwaters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna; and, educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be directed to:

David J. Weinsoff, Esq.
Law Office of David J. Weinsoff
Fairfax, CA 94930
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STATUTORY BACKGROUND

The SDWA, 42 U.S.C. §§300f to 300j-26, was enacted in 1974 to “assure that water supply systems serving the public meet minimum national standards for protection of public health.” Safe Drinking Water Act, Legislative History, H.R. Rep. No. 93-1185 (1974), reprinted at 1974 U.S.C. C.A.N. 6454. The Act authorizes the EPA to “establish federal standards applicable to public water supplies from harmful contaminants, and establish a joint federal-state system for assuring compliance with these standards and for protecting underground sources of drinking water.” *Id.* at 6454-55.

Section 1412(b)(1)(A) of the SDWA requires the EPA to identify contaminants in public water supply systems that may have an adverse human health effect and for which regulation would present a “meaningful opportunity” for reduction of that health risk. 42 U.S.C. §300g-1(b)(1)(A). For each of the contaminants identified under Section 1412(b)(1), Section 1412(b)(1)(E) requires the EPA to establish maximum contaminant level goals (“MCLGs”) as well as MCLs. 42 U.S.C. §300g-1(b)(1)(E). A violation of the SDWA occurs when testing/monitoring indicates that the level of a contaminant in treated water exceeds the MCL.

Private parties may bring citizens’ suits pursuant to 42 U.S.C. §300j-8 to enforce violations of MCLs. River Watch contends the City is, among its other activities, a supplier of drinking water regulated under the SDWA and, as detailed in the most recent monitoring reports provided by the Division of Drinking Water, violating the MCLs for TTHM.

VIOLATIONS

River Watch contends that between July 30, 2010 and July 30, 2015, the City violated the SDWA and the Code of Federal Regulations by failing to ensure that the drinking water supplied to its customers met and continues to meet the standards required by law including, but not limited to: exceeding the MCL for TTHM, and inadequate compliance with monitoring requirements obligating the supplier to confirm water quality at the point of delivery.

The violations listed below are derived from records publically available, or records in the possession and control of the City. Monitoring dates and reported exceedances were taken from documents on file with the State Water Resources Control Board, Division of Drinking Water, including those detailed in Citation No. 02-03-15C-002, issued on February 27, 2015. For a public water system monitoring TTHM on a quarterly basis, each locational running annual average (LRAA), computed quarterly, shall not exceed the MCL of 0.080 mg/L (80 µg/L).

Sample Location: Site 2 – 1072 Darms Lane (Ps Code 2810003-24)

MCL - TTHM - 0.080 mg/L (80 µg/L)

Monitoring Dates and Sampling Demonstrating Exceedances of the LRAA:

April 2, 2014 – 47.0 µg/L
July 9, 2014 – 144.2 µg/L
October 1, 2014 – 27.8 µg/L
January 7, 2015 – 104.6 µg/L
April 30, 2015 – 92.6 µg/L

Sample Location: Site 3 – 4152 Brown Valley Road (Ps Code 2810003-028)

MCL - TTHM - 0.080 mg/L (80 µg/L)

Monitoring Dates and Sampling Demonstrating Exceedances of the LRAA:

April 2, 2014 – 88.4 µg/L
July 9, 2014 – 75.1 µg/L
October 1, 2014 – 129.1 µg/L
January 7, 2015 – 95.7 µg/L
April 30, 2015 – 93.0 µg/L

Point of Use Quality Assurance

Although drinking water suppliers tend to sample water quality from a central location, such as directly after treatment, the water supplier is responsible for water quality either at the point of use or point of delivery. There is no evidence in the public record that the City has ever assured its water quality at point of use or point of delivery.

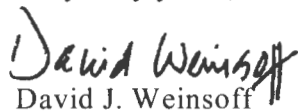
CONCLUSION

It is presumed that the City is in continual violation of the applicable standard until constituent measurements are below that applicable standard. Therefore, each day after an exceedance and until the supplier is in compliance, is considered a separate violation of the SDWA and the court can grant relief in the form of requiring that the drinking water be brought to meet drinking water standards, awarding of attorney fees, and in some cases, penalties.

The importance of quality drinking water cannot be overstated. MCLs are set with the biology of healthy young adults in mind. The same standards are set for everyone, including children, pregnant women, the elderly and infirm. River Watch is understandably concerned about the health effects of water systems which continue to provide contaminants above MCLs. Disinfection byproducts in drinking water have been linked to health problems including cancer, and reproductive / developmental effects. It is the City's responsibility to provide healthful drinking water and to conform to the standards set forth in the Act, as well as to properly monitor, report, and ensure that water has been tested at the point of delivery.

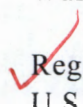
River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch will have cause to file a citizen's suit under the CWA against the City for the violations enumerated herein. During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted in this Notice. However, if the City wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated within the next **20 days** so that they may be completed before the end of the **60-day** notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when that period ends.

Very truly yours,


David J. Weinsoff

DW:lhbm

cc: Administrator
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